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International Association of Drilling Contractors

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1 July 1998 *In Triplicate*

Department of Interior
Minerals Management Service (MS-4024)
Attn: Rules Processing Team (Comments)
381 Elden Street
Herndon, VA 20170-4817

Re: Postlease Operations Safety

To Whom It May Concern:

The International Association of Drilling Contractors is a trade association representing oil and gas drilling contractors. Our membership includes all contractors currently operating Mobile Offshore Drilling Units (MODUs) on the U.S. Outer Continental Shelf.

IADC has reviewed the proposed revisions to the Postlease Operations Safety regulations as published in the 13 February 1998 *Federal Register* and are most concerned that the proposal:

(1) Is inconsistent with the provisions of both the existing and proposed Memorandum of Understanding between the MMS and the U.S. Coast Guard regarding the division of regulatory responsibility for MODUs.

(2) Fails to provide a mechanism for appeals by contractors or others who may be directly impacted by a decision made by MMS, other than through the Lessee.

Our detailed comments, addressing these and other issues, are attached. If you have any questions regarding these comments please contact the undersigned at IADC Headquarters.

Sincerely,

Alan Spackman
Director, Offshore Technical
and Regulatory Affairs

CF 1139

Postlease Operations Safety

Comments of the
International Association of Drilling Contractors

Regarding 30 CFR 250.2, Definition of *"Emissions offsets."* The definition of Emissions Offsets, coupled with the associated definition of Facility does not appear broad enough in scope to allow offsets to be obtained from all the emissions sources which may be regulated by MMS. The provisions of Section 328 of the Clean Air Act require that the emissions from vessels other than those used for production (the definition of "facility") be assessed, and potentially controlled. Further, and it is our understanding, that it is MMS's current practice to include these "non-production" emissions in its assessments. Accordingly, it may be appropriate for MMS to expand either this definition, or the definition of "facility," to allow such emissions to be eligible for consideration as emissions offsets.

Regarding 30 CFR 250.2, Definition of "*Facility* as used in §250.11." With respect to the inclusion of mobile offshore drilling units (MODUs) within the definition, this definition is inconsistent with MMS's interpretation of, and definition of, "facility" as used in its Memorandum of Understanding with the U. S. Coast Guard. We do not believe that it is MMS's intention to purposefully exclude MODUs (or other vessels engaged in drilling or downhole operations) from inspection under §250.11, as appears to be the effect of the use of this definition.

Regarding 30 CFR 250.2, Definition of "*Facility* as used in §250.45." Similar to the above, we do not believe that it is MMS's intention to purposefully exclude MODUs (or other vessels engaged in drilling or downhole operations) from coverage under the provisions of §250.45 simply because they are not "used to transfer production." We believe that it is currently MMS practice to require MODU operations to be assessed under these regulations. Further clarification may be appropriate with respect to MODUs operating in the "tender assist" mode (i.e., with skid-off drilling units) or other vessels that may be directly engaged in downhole operations but not production.

Regarding 30 CFR 250.5. The proposed text states:

> "To ensure the safety of facility operations, you must meet the requirements of paragraph (a) of this section."

Since neither of the proposed definitions of "facility" refer to this section, its scope of application is not clear. In any case, IADC does not believe that it is appropriate to apply the provisions of §250.5 to MODUs or other vessels subject to inspection (U.S. flag) or examination (foreign flag) by the U.S. Coast Guard. Under regulations issued under the

authority of Title 46 of the United States Code, the Coast Guard has established a comprehensive program for assuring the safety U.S. flag vessels and of seamen and others employed on such vessels. IADC does not believe that there justification exists for MMS to impose overlapping occupational health and safety requirements on such vessels for those periods during which they are engaged in OCS activities. Further, inasmuch as the Coast Guard's regulations governing operations and safety of MODUs are equally applicable to U.S. flag vessels and foreign flag vessels engaged in OCS activities, we see no basis for making a distinction between U.S. flag or foreign registered vessels in this regard. IADC has submitted related comments in response to the proposed revision of the Memorandum of Understanding between the MMS and the U.S. Coast Guard (MMS/Coast Guard MOU).

In this and other regulations where the definition of "facility" may include MODUs, IADC believes that MMS should develop the regulations in a manner that minimizes any uncertainty. MMS has chosen to regulate MODUs and other contracted equipment through the lessee or operator. Reconsideration of this approach is beyond the scope of this rulemaking. However, providing clarity in the rules such that individual lessees or operators do not have widely varying interpretations of the rules' applicability to such equipment and associated activities is certainly within the scope of the effort and should be a goal of this and other regulatory reform efforts.

Regarding 30 CFR 250.6(a). The proposed text states:

> "A copy of the plan and its approval letter must be available at the facility for the life of the facility (platform or drilling rig)."

Again, we find that the definition(s) of "facility" and the inclusion, in this case, of a specific reference to a drilling rig have created ambiguity and a potential for confustion. This is particularly perplexing in this case because while a copy of the plan and its approval letter must be available at the facility (rig) for the life of the facility (rig) a new plan must be submitted and a new approval obtained for virtually any relocation of a MODU.

IADC believes that it should be possible to develop provisions appropriate to MODUs (and other mobile facilities or vessels that may engage in drilling or downhole operations) that would allow for a single approval of a "safe welding area" to be issued for the life of a rig.

Regarding 30 CFR 250.7. Again, the multiple definitions of "facility" create ambiguity and a potential for confusion respect to the applicability of this section to MODUs.

In earlier rulemaking efforts, IADC has informed MMS that it does not believe API RP 500 (first edition) represents in industry standard applicable to MODUs. We continue to hold this view.

Both the existing and proposed revisions to the MMS/Coast Guard MOU indicate that area classification on MODUs should be determined by U.S. Coast Guard regulations. IADC believes that, in conformance with the MOU, the rules should clearly indicate the regulatory standards for area classification for MODUs rest with the U.S. Coast Guard.

Notwithstanding the above IADC notes that API has issued a newer edition of RP 500 and has also issued RP 505, which conforms to IEC standards. IADC believes that an option should be provided to use either API RP 500 (second edition) or API RP 505, provided one or the other is consistently applied throughout the life of the individual facility.

Regarding 30 CFR 250.11. As previously noted, the use of the term "facility" creates ambiguity with regard to the applicability of this paragraph to MODUs or other vessels that may be engaged in drilling or other downhole operations. We have no objection to MMS including MODUs and other vessels engaging in drilling or downhole operations within the provision of this requirement—we only seek clarity.

Regarding 30 CFR 250.13. We believe the "you" as used in this paragraph is too restrictive and should be expanded to include any person who may be adversely impacted by an MMS order or decision. In particular we wish to ensure that contractors are offered access to MMS's administrative processes.

As MMS has indicated that it is expanding its enforcement activities to contractors, they should be offered the same administrative processes for relief as operators. Further, MMS should recognize that its orders or decisions may adversely impact a contractor's operations or equipment yet, because of contractual terms, the operator may have no incentive to submit and appeal on behalf of the contractor and in some circumstances may actually benefit financially by the contractor's difficulty. In such cases contractors should have the opportunity to appeal the requirement and to request a stay of the decision pending a final decision on the appeal. We do not believe that the current definition of "you" provides for such an appeal. A possible simple solution is to replace "you" with "any person."

Regarding 30 CFR 250.17. We question the utility of displaying the "weight capacity" of a helipad. Weight capacity may be dependent upon the particular footprint of the helicopter. More importantly, weight is only one of several criteria that must be considered in determining whether a particular helipad is suitable for a particular helicopter. Other equally critical factors that have not been addressed by regulation include the helicopter's rotor diameter and the orientation of both temporary and permanent obstructions on the facility. These issues are addressed by industry practice. Given the industry's record we see no need to weight or any of these other factors by regulation.

Regarding 30 CFR 250.20, Reporting Requirements. We are opposed to §250.20 as proposed. We are not fundamentally opposed to MMS requiring the collection and reporting of this information; however, we are opposed to both MMS and the U.S. Coast Guard requiring the collection and reporting of duplicative information.

Much of the information required by MMS is already required by the Coast Guard under 33 CFR 146 (casualties) or 33 CFR 151 (oil spills). Such duplicative reporting requirements are contrary to the Presidential *Statement of Regulatory Philosophy and Principles* as set forth in E.O. 12866. It is particularly perplexing that the MMS is proposing new information collection requirements with respect to casualties at a time when the Coast Guard has already announced a rewrite of its regulations in 33 CFR 146.

After twenty years of joint jurisdiction it is time for the two agencies to coordinate their activities and develop procedures for inter-Agency exchange of information rather than require duplicative reports.

Regarding 30 CFR 250.20, Reporting Thresholds. We note that the preamble indicates that "MMS will provide more guidance on thresholds for fires, and factors that impair safety, through Notices to Lessees." While we concur that additional guidance should be provided, we are concerned that the reporting burden may be substantially altered in this manner without appropriate review and accounting under the provisions of the Paperwork Reduction Act.

Regarding 30 CFR 250.20, Investigations. For sake of clarity we would suggest that the provisions regarding investigations be placed in a separate paragraph.

While there is certainly a linkage between MMS (or the Coast Guard) receiving information regarding major fires, major oil spillage, death or serious injury and their mandate to conduct an investigation and make a public report, both Agencies are authorized, on their own discretion, to investigate lesser incidents, reportable or not. This could be made clearer if the regulations regarding investigations were not included within the provisions on reporting.

Regarding 30 CFR 250.20, Evacuation Statistics. As, in recent years, our members have been asked to collect and report this information in a haphazard manner, we see benefit in assigning responsibility, standardizing and codifying the procedures for making such reports. However, as the rule seemingly relates to the efficacy of operations conducted to implement the Emergency Evacuation Plans (EEP) required by Coast Guard regulations (33 CFR 146) we question whether the Coast Guard, rather than MMS, should be the recipient of such reports. It would seem that as the Agency responsible for Coastal search and rescue, the Coast Guard would have the immediate need for such information, particularly with respect to the failure of an EEP to achieve its intended

purpose. An additional factor to be considered is whether or not the agency receiving the reports will itself be operating during the event requiring the evacuation. It is of little benefit to transmit the information to an unmanned office. We suggest that the MMS review this matter with the Coast Guard.